Snow v. Doubleday et al
Doc. 37 Att. 1

Exhibit A

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NAPOLI BERN LLP

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February 10, 2006

Mark B. Blocker, Esq.
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603

Re: Floyd v. Random House et al.

Dear Mark:

Following your conversation with Alan S. Ripka Plaintiffs' counsel in the undersigned putative Class actions met via teleconference to discuss terms of an early global settlement proposal.

Generally, any settlement would require Random House to (1) identify the Class Members affected; (2) clearly label and categorize the Book so as not to mislead consumers; and (3) make full restitution to plaintiff and a class of nationwide consumers. Therefore as an initial effort to settle this entire matter, Plaintiffs proposes the following:

Class Members:

Plaintiff proposes one settlement class which shall consist of all consumers nationwide we who; either purchased or read the book entitled "A Million Little Pieces" the ("Book").

Class Period:

The Class period shall commence on the date the Book was first released, and end January 14, 2006.

115 Broadway, 12th Floor, New York, NY 10006
Tel: 212.267.3700 Fax: 212.587.0031 www.napolibern.com

Settlement Terms:

Proposed Future Plan(s)

Random House will: (a) will instruct retailers to re-categorize the Book as fiction; and (b) will re-label the Book to clarify the true nature of the subject matter of the Book.

Remuneration

Cash Fund

Random House would also be required to provide remuneration to Class Members in the form of a cash common fund equal to 75 % of the gross aggregate revenue derived from the sale of the Book (the "aggregate amount"). At this point, the total aggregate amount is unknown and discovery would be required to determine the aggregate amount.

Class members will be entitled to make a claim against the aggregate amount for a period of 180 days following the initiation of the notice campaign discussed below. Each Class member shall receive a pro rata share of the aggregate amount. Class members must provide a receipt or other verified proof of ownership (i.e. the cover) to participate in the common fund. Any unclaimed monies shall be donated to "Everybody Wins" or a similar agreeable literacy charity.

Discount Coupon

In addition, for Class members who cannot make the requisite showing of ownership yet still make a claim, Random House will issue coupons for a discount on a future purchase. The value of the discount shall be ten dollars.

Notice:

U.S. Mail

Random House shall provide personal notice, via first class U.S. mail, to each Class Member who purchased directly from Random House or via the major internet booksellers, including, but not limited to, the following: Amazon.com, Barnes&Noble.com, Costco.com, Borders.com [there must be more]. Notice will be mailed to the billing address provided by consumers during the purchase.

Publication

In addition, Random House will publish Summary Notice of the Settlement prepared in connection with the proposed settlement in at least a 1/4 page advertisement, but no greater than a 1/2 page advertisement, in *USA Today* and at least ten other major metropolitan newspapers, to occur twice within the same calendar week of the mailing.

Claims Administration:

The parties shall select a mutually agreeable Claims Administrator to oversee the mailing and publication of the notice and to insure compliance with the terms of Settlement.

Costs of Settlement Administration

Defendants will bear all costs associated with the cost of notice, claims administration and implementation of the terms of settlement.

Attorneys' Fees and Costs:

To be negotiated after an enforceable Memorandum of Understanding is executed by the parties.

We believe that an in person meeting with you and representatives of our firms would be advantageous at this time. Although it is early in the litigation, we believe a settlement can be achieved early in this case. Liability, for all intents and purposes, has been admitted.

I look forward to hearing from you as soon as possible.

Very truly yours,

Marc Jay Bern

Michael David Myers
Myers & Company PLLC,
for Plaintiff Paglinawan

Mitch Kalcheim Esq.
Kalcheim & Salah
For Plaintiff Rubenstein

James Bonner
Shalov, Stone & Bonner
for Plaintiff Rubenstein

Dale & Pakenas
Thomas E. Pakenas
for Plaintiff Pilar More